

**CITY OF TAKOMA PARK, MARYLAND  
MINUTES  
(ADOPTED 3/14/05)**

**PRESENTATION, REGULAR MEETING AND WORKSESSION  
OF THE CITY COUNCIL**

**Monday, February 14, 2005**

**OFFICIALS PRESENT:**

Mayor Porter	City Manager Matthews
Councilmember Austin-Lane	City Clerk Waters
Councilmember Barry	ECD Director Daines
Councilmember Elrich	Community & Government Liaison Ludlow
Councilmember Mizeur	Landlord-Tenant / COLTA Coordinator Walker
Councilmember Seamens	Housing Specialist Kerr
Councilmember Williams	City Attorney Sigman

The Council convened at 7:37 p.m. in the Council Chambers of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

**COUNCIL COMMENTS**

Mayor Porter congratulated the CSAFE team and advisory committee, noting a nice presentation from the Lt. Governor this morning. She described the program in the Takoma-Langley CDA area. She noted that she had spoken to the Lt. Governor, suggesting that we look toward a similar program across the District border. She noted that there was a positive response from another official.

Councilmember Austin-Lane noted her attendance at the event and appreciation for the remarks of the Mayor to extend the program in the Old Town Takoma / District area.

Councilmember Williams commented on efforts related to hospice programs. He announced contact information for those interested in participation.

**ADDITIONAL AGENDA ITEMS**

Ms. Porter remarked about the postponement of Item #2.

**ADOPTION OF MINUTES** - 3/15/04, 4/26/04, 5/03/04, 5/10/04, 7/26/04, 9/07/04, 1/10/05

Moved by Williams; seconded by Seamens.

The minutes were adopted unanimously (ABSENT: Barry, Elrich, Mizeur)

## **PUBLIC COMMENTS**

Harry Edwards, Eastridge Avenue commented about rent stabilization and the matter of air conditioning.

“Unidentified” (landlord) remarked about the strict requirements of the Montgomery County inspectors. Things are being required to be brought up to Code. There are other requirements. He expressed concern about the time involved in the response to capital petitions. Employees in the rent control office are rude--will hang up and do not have a helpful attitude.

Ms. Porter responded that staff is encouraged to be helpful.

## **PRESENTATION**

### **1. Community Center.**

City Manager Matthews remarked about the change order related to removal of asbestos (\$2800). She commented on the plans related to the pavers for the entrance to the building. This will need to be addressed prior to the opening of the building. She explained the most cost effective options (i.e., pouring of concrete), the framing of concrete and the impact that this decision will have on the ability to install pavers. It would be less expensive to pour concrete in some areas versus installing pavers. We are still working on a decision about a prominent location for the installation of the engraved bricks (pavers).

Mr. Williams said that the area under consideration for the pavers would accommodate about 800 bricks. Only 100 bricks have been sold.

Councilmember Seamens questioned the area being discussed.

Ms. Matthews responded.

Mr. Seamens expressed appreciation for the information, especially the notice about the asbestos clean-up and related costs. The brick pavers would be best, but given the circumstances, he would concur with the recommendation.

Ms. Matthews remarked about conversations with the contractor and the options (e.g., “scoring the concrete”) to make the surface more visually, pleasing. She commented on the matter of the plazas in the original plan and that when they were removed from the plan. There was no contingency made with respect to protective railings. With respect to “Green Principles” and the California regulations, we are continuing discussions. Staff will have more information next week.

Mr. Williams talked to carpet installers and suppliers. There are some recycled content carpets on the market, but they are on the high-end of the scale and the suppliers have noted a history of

quick failure. He remarked about the trend in the market to tend toward recyclable carpet.

Ms. Austin-Lane asked about the research regarding skylights.

Ms. Matthews noted those with most expertise in this area. The estimate may be in the range of \$12,000 (partially due to roofing issues).

Mr. Williams noted that a question has been raised about the design of the skylight (e.g., grid pattern of skylights versus one large skylight). This may lower the cost.

Ms. Austin-Lane questioned the location of the skylight(s).

Mr. Williams commented on the design of the roof and the potential for future installation of a skylight(s).

Ms. Matthews added that the person who constructs the skylight(s) would need to be certified in that type of work.

Ms. Austin-Lane asked if this is a component in the RFP.

Ms. Matthews replied that it is a component of the project that would be bid separately.

Ms. Austin-Lane asked about the process to get this element in the project.

Ms. Matthews stated that staff is carefully watching the project budget and that she would wait until we get more solid numbers on the plaza level, before making a recommendation.

Ms. Austin-Lane said that she does not want the skylight to be lost in the project plan.

Councilmember Barry agreed that it is an important element, but said that he is a little concerned about retrofitting a building of this type. He wants to be certain that the final design is in line with the original intent.

Ms. Porter agreed that the overriding issue is the funding.

## **REGULAR MEETING**

### **2. Resolution re: Recognition of Jan Schwartz.**

Postponed.

### **3. Resolution re: Gateway Wayfinding Sign System.**

ECD Director Daines recalled last week's discussion and noted the signs that would be approved as a result of adopting this resolution. We are not approving the color, exact text or logo—just looking at the style and framing so that staff can go out with a bid. The Resolution does not approve specific locations.

Ms. Austin-Lane said that she is a little uncomfortable with approving something that would later result in change orders.

Ms. Daines responded, noting that staff has talked with design companies.

Ms. Porter asked if the assumption is that a contractor bid on a color with the option to later change the color.

Mr. Seamens disagreed with statement in the cover page that the Council agreed on the signs to be bid. Given the small amount of money, he would like to use the money left to design something that we can all feel comfortable with.

Mr. Williams questioned the timeframes related to funding.

Ms. Daines responded that we have until June to encumber all of the funds. To get the funds encumbered, we need to submit the proposal to the State Board of Public Works by the beginning of March. If we do not encumber the funds, we would have to turn them back to the State or find a way to revise the intent of the spending.

Mr. Williams asked if there are other options for how the money is spent.

Ms. Daines commented that if we were to use the remaining \$17,000 for design expenses, we would exceed the 25% extension over the initial contract.

Mr. Williams asked if the full amount for this project has to go before the State Board of Public Works.

Ms. Daines responded that the Gallagher amount has to go before the Board for approval.

Ms. Porter asked if it would be okay to go to the Board, requesting the full amount of the grant be put toward the design of the signs.

Ms. Daines replied that she cannot say for sure, without talking to state officials, but that she would think not.

Ms. Porter noted that the resolution only speaks to the signs about which there was no concern expressed last week.

Mr. Seamens restated his earlier comments for the two Councilmembers who have since arrived.

Councilmember Elrich stated that he does not have any enthusiasm for the signs. He supports the kiosks. We might want to continue evaluation of the signs and their locations. He does not necessarily have an opposition to putting out a bid to get pricing, but is not willing to commit to a vote on the purchase.

Mr. Williams commented that he would like to see some signs. We are close on the remaining questions. He wants to stay with the time pressure to resolve the issues and move forward with some signs.

Ms. Austin-Lane agreed with some of the comments made. She referred to the Whereas clause which is a concern of Mr. Seamens. It does not mention text or location of the signs.

Ms. Daines explained that this is a two-phased project. The text and locations will be a later discussion.

Ms. Austin-Lane asked whether passing this resolution sends a message to the design firm that we are decided on the designs.

Ms. Daines said that the understanding was that the overall conceptual designs were acceptable to the parties who have been part of the discussions, along with the Council.

Ms. Austin-Lane questioned whether Historic Preservation Commission (HPC) comments have been considered.

Ms. Daines stated that there have been no specific comments. The final design will be reviewed by the HPC. They will not give approval until we have made a choice on the design, the text and locations for the signs.

Mr. Seamens questioned whether staff has spoken with any neighboring communities about the signs.

Ms. Daines responded that they have been made aware of the discussion.

Mr. Barry reminded that this has been discussed numerous times and that he is comfortable that the various interest groups have been involved in the discussion. He urged a vote.

Ms. Porter agreed, noting the signs that were removed from the proposal as a result of last week's discussion. She would like to see something positive come out of this project (particularly, pedestrian oriented signs and the kiosks).

Mr. Seamens confirmed that kiosks are in this proposal. Even with concerns, he is willing to vote for this, but will have to later come back to the discussion about whether to encumber the funds.

Ms. Mizeur thinks that resolution reflects last week's discussion. How will we make decision about the locations of the primary gateway signage?

Ms Daines responded. Staff will evaluate on a number of criterion and bring that information back to the Council.

Moved by Barry; seconded by Williams.

Ms. Austin-Lane raised a question about the structure of the bid request.

Resolution #2005-6 (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

#### **4. Resolution re: Municipal Electrical Aggregation.**

Ms. Porter announced that tomorrow morning at 10:00 a.m. there will be a press event in the Council Chambers.

Community & Government Liaison Ludlow added that we have at least 10 municipalities who will be represented tomorrow. There will be several who will make statements about why they support this effort. Then some will go to Annapolis for a 1:00 Senate hearing on this issue. She noted some who will be in attendance tomorrow and remarked about the resolution and the letter that is proposed. She explained the opt-out electrical aggregation and the benefits.

Ms. Porter commented that the letter of intent does not make a commitment, it just states an interest in exploring the opportunity.

Mr. Seamens expressed thanks to Ms. Ludlow and Ms. Porter for putting together this coalition and bringing the matter to the point of going to the legislature.

Ms. Mizeur asked if the county expressed interest in assisting in this effort.

Ms. Ludlow responded that we have received strong support from the county council; however, nothing formal has been received this year.

Mr. Williams suggested that this may be a point to mention to county executive in the MML Chapter meeting later this week.

Moved by Seamens; seconded by Williams.

Ms. Ludlow noted a suggested revision to the resolution (proposed by resident, Catherine Tunis).

The Council agreed (re: Green House Emissions).

Ms. Ludlow indicated that this does not change the letter of intent.

Resolution #2005-7 (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Williams, Seamens).

## **5. CONSENT AGENDA**

**A. Resolution re: Appointment to NFZ Committee (Resolution #2005-8)**

**B. Resolution re: Appointment to Ethics Commission (Resolution #2005-9)**

Moved by Williams; seconded by Barry.

(VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Williams, Seamens)

BREAK - The Council recessed for a scheduled break at 8:36 p.m. and then reconvened for a continuation of the meeting.

## **WORKSESSION**

### **6. Process for Evaluating the City Attorney.**

Ms. Porter proposed that this be an initial, general discussion about the process and things that we would like to include. She would like the City Attorney be given an opportunity to comment. She noted the information included in the package item.

Mr. Barry remarked that the principle should be that the City Attorney be evaluated, based on the conditions of the contract. Then we would look at how the firm has done these things over a period of time. This will require some fact finding. In the next contract, we might include some of the elements in the other samples provided. However, the current evaluation should be based on the existing contract.

Mr. Seamens agreed in principle. Anyone being reviewed should know in advance, the criteria for the review. The contract lays out the requirements of the job. It would also be valuable to have a list of the topics that the City Attorney has addressed for the city, along with the outcomes. He would like to get copies of monthly invoices, going back to some of the past invoices.

City Attorney Silber noted that the firm provides a 30 day invoice that is divided by project or un-going type of work. At some point, the City Manager's office provided a quarterly summarization of the legal activities.

Mr. Seamens commented that he found the monthly detailed reports very helpful.

Ms. Silber expressed appreciation for Mr. Barry's remarks. The Council should set a period of

time for the evaluation. She noted that her firm has been doing work for the city since 1986, and has not had an evaluation in a very long time. She finds doing work for the city an enormous privilege and is happy to participate in the evaluation process. It is good to foster communication and better the understanding of priorities.

Mr. Barry stated that we have used specialized counsel on a number of issues. Do you take a role in selection of the specialized counsel? Should they then be evaluated in this process (work of specialized counsel)?

Ms. Silber responded that they have had a large responsibility in the selection of specialized counsel.

Ms. Porter commented that an important part of the evaluation would be to get feedback from city staff.

Ms. Silber explained that the bulk of their work under is under the surface with respect to counsel to the city council. The majority of work is done with city staff.

Ms. Seamens recalled having raised the concern about the lapse of the evaluation. It should cover a much longer period of time than just 2004.

Ms. Porter responded that as a practical matter, there are some members of council that were not here for the earlier years.

Mr. Williams said that he can see a focus on 2004, with allowance of other matters that have been ongoing.

Ms. Silber noted that the last evaluation was in 1991, adding that she likes Mr. Williams' suggestion, but would like notice about any older matters to be addressed.

Mr. Williams stated that the Council almost got to this point in 2001, but didn't get through the process.

Ms. Porter restated Mr. Barry's suggestion about approach to the evaluation, adding that we should get information from the City Manager with respect to staff's perspective.

Mr. Williams also suggested feedback from certain statutory committees.

Mr. Barry proposed that the Council might create a scale (Likert - numerical scale) for the criteria included in the contract.

Ms. Porter noted that the evaluation will be held in Closed Session. Evaluation criteria will be open to public inspection.



Ms. Austin-Lane said she would like to see the 1991 evaluation.

Ms. Silber responded that it can be provided as a confidential document.

Mr. Williams spoke in favor of an evaluation on a calendar-basis.

Mr. Seamens commented that with respect to the closed session suggestion, it is his opinion that the discussion should be conducted in open session.

Ms. Porter remarked that under the law, we can conduct this discussion in closed session. The Council can be more frank and address specific issues in a closed discussion.

Ms. Silber added that there is a very long history of private evaluations. It would be a more meaningful process if the evaluation be done in closed session.

Mr. Elrich questioned whether other jurisdictions do these evaluations in open sessions.

Ms. Matthews responded that the municipalities with which she spoke, did not conduct evaluations. They did not have forms or formal evaluations with their City Attorney.

Mr. Elrich stated that this is also his sense. The appropriate place for comments about job performance is when the Council has to make a decision about whether to extend the contract.

Ms. Austin-Lane suggested that any comments that come in during the year (between evaluations) be filed for review at the time of the evaluation.

Mr. Williams added that it would be helpful to include a self-evaluation in the beginning of the process.

Seth Grimes, Willow Avenue (Sustainable Takoma) commented that Ms. Silber's memo and points are mostly good. Sustainable Takoma would like a review of ongoing legal issues that go back prior to 2004, and the evaluation should include public comments. We have an interest in how legal work is performed. If the City Attorney covers work outside of the contract, then those things should be reviewed as well.

Ms. Matthews stated that she will solicit comments from a variety of people on the suggested list and would encourage that citizen comments also be included.

## **7. Rent Stabilization.**

Ms. Daines recalled the history of the discussion about re-codification of the Housing Code – the rent stabilization section is the only one that has not yet been finalized. She noted the information in the agenda item materials and summarized the proposed changes. She commented on the properties that are currently exempt from rent stabilization.

Ms. Porter stated that this is probably the first of a number of discussions that we will need to have on this topic. This evening, we would like to get issues/questions on the table that the Council will want to address, and then come to a conclusion on process.

Mr. Seamens said that he is a landlord in the city and that his property does not currently fall under the law. With these changes, he may be covered.

Mr. Elrich would like to see some CPI Indexes. He remarked about a possible problem with picking a base year for the hardship petition. We should maintain some flexibility.

Mr. Williams recognized those in the audience--many want to closely follow this discussion. Is there a way to get their input in a more formal way as we move forward? Should we set up a liaison committee to frame feedback? He said he could envision the group being open to anyone interested.

Mr. Seamens remarked that it would be helpful to have information about the impact of the recommendations (quantify, where possible).

Ms. Daines said that the staff memo was prepared almost a year ago. There are some footnotes that describe the impact.

Mr. Seamens noted that these are staff recommendations. There have been other ideas suggested from the public. What was the process for staff choosing these particular items as recommendations?

Mr. Elrich responded, noting that he is not in favor of appointing another committee. A couple of these recommendations, combined, would displace about 30% of tenants. It would be very difficult to form a study group that "balances" landlords/tenants. He noted the one tenant in the audience to hear a discussion that will affect over 4,000 households in the city.

Ms. Porter expressed her agreement with Mr. Elrich not to form another committee. This is an issue that the city has dealt with over many years. It has been done to maintain economic diversity. She recalled some of the comments stated at the public hearing, noting that she has heard negative comments from tenants/landlords about the capital improvements petition. Thinks that there may be some room for improvement in the hardship petition process. She invited comments, emphasizing that she would like to see something done with the annual CPI updating process and the capital improvements petition process.

Mr. Williams remarked that his suggestion for a committee was to provide the Council with feedback as we move through the discussion. Folks who deal with this and have practical experience should have input--that knowledge is good.

Ms. Austin-Lane agreed that we need a public process for exploring this, and that it may not be in context of a Worksession. The Council has held a public hearing. The public process could

have the exploration of the impact of rent control.

Mr. Williams stated that there has not been a full discussion of the implications of the recommendations. Just because Mr. Elrich has strong opinions on this issue, the Council should not preclude a more broad discussion.

Mr. Elrich responded. People who live in this city really need rent control. The housing situation inside the beltway is in a crisis situation. We all know the basic facts of the matter. We are the only jurisdiction in the state with this type of law. We are doing the right thing and should continue to.

Ms. Austin-Lane commented on the TASDI research, stating that they are not kicking out rent control. They are evaluating a city policy.

Ms. Porter said that rent control helps to maintain the ethnic, income and cultural diversity in the community. She does not doubt that it is costing us something.

Mr. Seamens remarked that he does not doubt Mr. Elrich's summary of the affordable housing in the area, and wants to keep affordable housing (however, not sure that it will continue). We need to look at areas where can fine tune the law so as to not lose affordable housing. He would be interested in seeing some quantification of rental units (historical data)—homes that have been converted to condos.

Ms. Daines offered to provide that information.

Mr. Seamens added that information about licenses would also be helpful.

Ms. Porter said she would also be interested in how many units were lost due to the phase-back, and the number that were sold to tenants. Where do we go from here with the process?

Ms. Austin-Lane commented that the small buildings have few units that are more impacted by rent control than large high-rises. She would like data on the impacts (one versus the other).

Ms. Porter questioned the number of units that are rented below rent stabilization thresholds.

Mr. Williams asked for current information on capital improvements petitions and how the process is working.

Mr. Elrich queried whether it is possible to compare similar units and the different rates.

Ms. Porter conferred with the Council and staff about the next discussion of this item as being the first week in March.

Elrich - not talking about ignoring any comments. Will not get info back before 30 days. Does

not think there is a concern that will not have adequate time comments.

Eric Denchfield (landlord) expressed concern about the capital improvements petition process.

Mr. Elrich requested a written statement about his experience with the process.

Mark Hessler identified his interest in affordable housing. Affordable housing will not happen unless we have rental housing, over the long-run. The Council needs to look at whether we can maintain the goals of diversity.

(Unidentified ? (renter)) stated pride in being a resident of the city. She explained her situation and the impact of a pending rent increase.

(Unidentified ? (male)) remarked that he has been both a renter and tenant.

“Jay” (MALE) - here on behalf of his mother (who is a renter). Having seen what is going on with rents in the city, they are impacting affordable housing. Suggested that the council look at other alternatives to support affordable housing. Economics are driving the situation.

Jane Holmes encouraged the Council to read the UMD study. It has a lot of analysis. The City’s landlords are small business owners. We have been saying the same things since 2003. Read what we have been saying all along.

Larry Ravitz, Tulip Avenue (owns Wedgewood Apartments) said that we need to think of the desires of both landlords and tenants, and about how to handle a unit when it becomes vacant.

Ms. Matthews summarized requests for information made this evening. Does the Council expect staff to provide additional recommendation?

Ms. Daines remarked that staff could explore the impact of the recommendations. We have discussed the indices with a statistician and could later decide whether to have this expert come to a meeting.

## **8. City Manager’s Quarterly Update and Financial Report.**

Ms. Matthews noted the report in the packet.

Ms. Porter commented that it is very complete and an informative representative of the revenue/expenditure report.

Mr. Williams stated that he likes the format of the issues updates—very helpful.

Mr. Seamens expressed appreciation.

Ms. Matthews referred to the footnote in the executive summary and the consistency of the format with the annual audit. She remarked about the practice with respect to posting tax collections and how amounts are posted to the general ledger, adding further comments about things that impact receipts (e.g., delinquencies). This is not the practice that she is accustomed to. Regardless, revenues are performing as anticipated.

Mr. Elrich stated that it would be helpful to footnote anything that seems of concern

Ms. Porter referred to a proposed column entitled “uncollected revenue”-- budgeted vs. received. budgeted figure (less the collections to date).

Ms. Austin-Lane raised concerns early in the budget year (e.g., Urban Forest Budget). Is there enough in the budget?

Ms. Matthews commented on her discussions with the Public Works Director. The City has been using temporary assistance for maintenance of the gardens. The Council needs to be aware of the immediate need to approve the replacement of the pumping system in the basement. We had a recent issue with the primary pump which has been repaired, but need to replace the secondary pump.

Mr. Barry asked about the Non-Departmental - WAH Litigation budget amount.

Ms. Matthews responded that we have not drawn from those funds.

Mr. Seamens asked about the timing for hiring of a new finance director.

Mr. Matthews responded. We hope to have some resolution by mid-March.

## **ADJOURNMENT**

The Council adjourned at 10:45 p.m. for the evening.